

COMMITTEE CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for Certification)	Docket No.
of the Russell City Energy)	01-AFC-7
Center)	
_____)	

CITY HALL
COUNCIL CHAMBERS
777 B STREET
HAYWARD, CALIFORNIA

THURSDAY, AUGUST 22, 2002

10:00 a.m.

Reported by:
Peter Petty
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

William Keese, Presiding Member

HEARING OFFICER, ADVISORS PRESENT

Gary Fay, Hearing Officer

STAFF and CONSULTANTS PRESENT

Richard Ratliff, Staff Counsel

Jack Caswell, Project Manager

Gabriel Behymer

Keith Golden

PUBLIC ADVISER

Roberta Mendonca

APPLICANT

Greggory L. Wheatland, Attorney,
Ellison, Schneider and Harris, LLP

James R. Leahy, Development Manager
Calpine Corporation

ALSO PRESENT

Charlie Cameron

Sheila G. Junge

Janice DelFino
Hayward Area Shoreline Planning Agency (HASPA)

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P R O C E E D I N G S

10:00 a.m.

HEARING OFFICER FAY: Good morning.

This is a Committee-sponsored conference regarding the application for certification of the Russell City Energy Center being conducted by a Committee of the California Energy Commission in charge of that.

I'm Gary Fay, Hearing Officer; and to my left is the Chairman of the Energy Commission, William Keese. Commissioner, do you have any opening remarks?

PRESIDING MEMBER KEESE: No.

HEARING OFFICER FAY: Okay. Today's conference was publicly noticed on July 31st, and the business of the day is that we will take comments on the Presiding Member's Proposed Decision that was issued at the end of July.

There's a 30-day comment period still in effect, so if anybody has further remarks they can submit them to the Commission in writing until August 30th.

The Committee has scheduled this matter to be considered by the full Energy Commission at the normal business meeting of the full Commission

1 on Wednesday, September 11th, beginning at 10:00
2 a.m. And a notice of that is outside on the table
3 to pick up.

4 The format for today will be that we
5 will begin asking parties in the case for their
6 comments. I'll begin with the applicant; ask them
7 if they have anything to add to the written
8 comments that they've filed.

9 Both the applicant and the staff filed
10 written comments on or about April 16th; and
11 copies of those comments are, again, out on the
12 table.

13 And if they have nothing to add then I
14 will ask whether they have any comments to make
15 regarding comments filed by other parties.

16 We will go with the applicant. Then
17 we'll go to the staff. Then if any other parties
18 are present, such as East Bay Parks, we'll ask
19 them if they have comments. And then we'll open
20 it up for members of the public to comment.

21 I do ask, though, that you focus your
22 remarks on the comments on the proposed decision.
23 There certainly is ample opportunity to comment
24 generally on the application or the power plant or
25 anything you want, but today's business is really

1 to get your focused remarks on the PMPD.

2 And with that in mind, it would help
3 greatly if you would give us a page and paragraph
4 reference if there's something you disagree with,
5 or think should be changed. Please tell us where
6 it is and we can all turn to it and look at the
7 language and then consider what you have to say.

8 Ms. Roberta Mendonca is right over here
9 with blue cards. And if you are a member of the
10 public and wish to speak, please fill out a blue
11 card with her. And what I do is take all those
12 and keep them in the order I receive them, and
13 then we call on you. That way we're sure not to
14 miss anybody.

15 So, I'd like to begin by asking if there
16 is any preliminary matters from the parties. Mr.
17 Wheatland?

18 MR. WHEATLAND: Good morning; I'm Gregg
19 Wheatland, counsel for the applicant. And with me
20 this morning up here is Jim Leahy, our Project
21 Manager. And we don't have any preliminary
22 matters this morning.

23 HEARING OFFICER FAY: Mr. Ratliff, any
24 preliminary matters?

25 MR. RATLIFF: No.

1 HEARING OFFICER FAY: Okay. Then we'll
2 begin. Mr. Wheatland, any additional comments on
3 the proposed decision, in addition to those you
4 filed?

5 MR. WHEATLAND: Well, just very briefly,
6 I'd like to say that we're very pleased to be here
7 this morning. We're very pleased that this
8 proceeding has reached this particular stage,
9 which is the last step prior to a final decision
10 on our application.

11 I think this is a model in terms of how
12 a regulatory proceeding can progress. It's been a
13 long year for us, but it's one where I think as it
14 reaches an outcome that most everyone should be
15 pleased with.

16 All of the parties in this proceeding
17 have worked together in a very good, professional
18 and cooperative relationship. And I think as a
19 result of that we have a very good project that
20 has evolved, as reflected in the Presiding
21 Member's Proposed Decision.

22 There have been some issues that have
23 been contested, but largely all of the parties
24 have done a good job listening to each other. The
25 applicant, especially, has tried very hard to

1 listen to the concerns of the staff and the
2 community and the other parties as the proceeding
3 has progressed.

4 And I think the relatively few issues
5 that remain contested reflects the ability to
6 listen carefully and to respond in an appropriate
7 way.

8 The Presiding Member's Proposed
9 Decision, we believe, accurately reflects the
10 record of this proceeding; and has decided those
11 few contested issues fairly and judiciously. So
12 we are in full support of the proposed decision.

13 I don't have any other specific
14 comments, in addition to what we filed, other than
15 to note that the comments that we have made focus
16 on issues of typographical errors or minor
17 clarifications. And we have no substantive
18 disagreement with any of the findings and
19 conclusions or proposed conditions as set forth in
20 that decision.

21 HEARING OFFICER FAY: Thank you. Do you
22 have any comments to make on the staff filing?
23 That was the only other written comment filing
24 received.

25 MR. WHEATLAND: Well, I believe the

1 staff also is in substantial agreement with the
2 proposed decision with the exception of the issue
3 of PM10 monitoring.

4 And we believe that the Committee has
5 reached a reasonable approach to this issue. The
6 demonstration program that is in the Los Esteros
7 program is now underway. And once that
8 demonstration is completed and reviewed, the
9 compliance unit is directed by the PMPD to closely
10 examine the effectiveness of the demonstration at
11 Los Esteros. And if it proves effective, the
12 compliance staff is directed to consider requiring
13 similar steps at the Russell City facility to
14 reduce the construction-related fugitive dust.

15 We think this is a very reasonable
16 approach to the issue; one that does, in fact,
17 respond to the staff's concerns. And if Los
18 Esteros does prove the need for this additional
19 monitoring, then it certainly can be achieved in
20 Russell City.

21 So we think that the proposed decision
22 has the right outcome and we would encourage the
23 Committee not to revise this finding.

24 HEARING OFFICER FAY: Okay. Let me ask,
25 are there any other parts of the staff comments

1 that you need to take particular exception with?

2 I know in some cases characterizations
3 were -- or the staff recommended that some
4 characterizations were revised in the PMPD. And I
5 just, I guess I'd sort of cite it as the tone or
6 the expression of a phrase, rather than a
7 substantive change.

8 And I just wanted, as a reality check,
9 does the applicant have any problems with those
10 recommendations?

11 MR. WHEATLAND: We've reviewed those
12 very carefully and we don't have a problem with
13 any of those recommendations.

14 In each of the instances where the staff
15 has proposed a change in language we would agree
16 to that change. The only parenthetical exception
17 we have is not directly related to a proposed
18 language. We wouldn't go so far as to say that
19 anything made by a human being is a cultural
20 resource. But, the language that's specifically
21 proposed in that section to be changed we would
22 have no objection to.

23 HEARING OFFICER FAY: All right. So,
24 absent that particular phrase --

25 (Laughter.)

1 HEARING OFFICER FAY: -- you don't have
2 problems with a revision of the finding?

3 MR. WHEATLAND: That's correct.

4 HEARING OFFICER FAY: Okay. Thank you
5 very much. And now I'll turn to the staff. Mr.
6 Ratliff, do you have anything to add to the
7 written comments you filed?

8 MR. RATLIFF: I think we basically
9 stated in our comments the changes we think need
10 to be made in the decision. Since I'm recently
11 back from vacation and haven't had an opportunity
12 to read the full decision, I think we also need to
13 have Mr. Caswell address whether there are any
14 additional comments that we need to make.

15 The most significant additional comment
16 that we would make today is that we believe that
17 you need a little bit of extra language in the
18 decision and in the conditions of certification to
19 implement what you have in the text of the
20 decision concerning PM10 monitoring. And whether
21 or not we incorporate that monitoring into the
22 RCEC construction project based on the experience
23 at the Los Esteros construction site.

24 The decision states that the compliance
25 unit will closely examine the effectiveness of the

1 demonstration at Los Esteros. If it proves
2 effective, compliance staff is directed to
3 consider requiring similar steps at the RCEC to
4 reduce construction-related fugitive dust where
5 appropriate.

6 And I think what we would propose is
7 that there be some implementing language in the
8 conditions of certification that follow that would
9 allow that assessment to be made and to trigger
10 that additional monitoring if it is appropriate.

11 And unfortunately we didn't come
12 prepared to offer that language today. What we
13 would propose to do is prepare such language and
14 docket it. And serve it on all the parties, so
15 that they have it and can comment on it. And try
16 to work out some sort of trigger mechanism that
17 would allow that portion of the decision to be
18 implemented.

19 HEARING OFFICER FAY: And you'll do that
20 before the 30th?

21 MR. RATLIFF: Yes, we'll do that as
22 quickly as possible. We have brought our air
23 quality staff witness today to answer any
24 questions that the Committee may have. Mr. Gabe
25 Behymer is here with me, if you have any questions

1 on that score. We also have Mr. Keith Golden, his
2 Supervisor, in the audience. And that would be if
3 the Committee would like to discuss any of the
4 issues related to PM10 monitoring.

5 But again we think that the -- it's our
6 impression that the applicant agrees with us in
7 concept, and that the Committee's decision
8 implements in concept some reference to the
9 experience that is currently under -- we're
10 currently having at Los Esteros' monitoring.

11 And we feel that with the additional
12 language that we would have some kind of
13 implementing tool to see that that was actually
14 possible.

15 PRESIDING MEMBER KEESE: Mr. Ratliff,
16 are you suggesting that there is a procedure in
17 the Los Esteros case that you would follow in this
18 case, should Los Esteros prove successful? Is
19 that what you're getting towards?

20 MR. RATLIFF: Well, what the decision
21 says is that if, in fact, the monitoring at Los
22 Esteros is deemed to have actually contributed to
23 a good result, that the compliance unit is ordered
24 to follow up and assess that, and determine what
25 to do with regard to that in this project.

1 And yet, there's nothing in the
2 conditions of certification which would implement
3 that.

4 PRESIDING MEMBER KEESE: Right.

5 MR. RATLIFF: And that's all we're
6 saying is that we'd want to have that implementing
7 language.

8 PRESIDING MEMBER KEESE: But you would,
9 probably something similar to what Los Esteros is
10 doing on the pilot basis?

11 MR. RATLIFF: That's right. We would
12 propose very similar kinds of monitoring as that
13 that is being done in Los Esteros.

14 And I wrote up -- I tried to write up in
15 the car on the way down some language, but it's
16 rough. And my preference would be to go ahead and
17 propose the language during the comment period and
18 let other people comment on the language, all the
19 parties or the public who want to comment on that
20 language -- possibility.

21 PRESIDING MEMBER KEESE: Thank you.

22 HEARING OFFICER FAY: I'll share with
23 you a thought that I shared with Mr. Caswell
24 before we convened. And that is that staff might
25 want to consider, if it's weighing on one hand

1 crafting some very specific trigger language, they
2 might also want to think about the fact that
3 language that captures the current advisory of the
4 Committee might actually give it more flexibility
5 to later go to the Commission with specific
6 language after they've seen what happened at Los
7 Esteros. Rather than be bound into something that
8 gets adopted in this decision.

9 Because presumably Los Esteros is a
10 demonstration project, and the staff will learn
11 something about this type of monitoring from that
12 project.

13 So, it's just a suggestion, but perhaps
14 the lack of specificity at this time could be an
15 advantage later in that you'd be able to come to
16 the Commission with a more informed recommendation
17 on how to best use that type of monitoring if you
18 decide to apply it to this project.

19 MR. RATLIFF: I agree.

20 HEARING OFFICER FAY: Now, I'd also like
21 to ask if you have any comments on the remarks
22 filed by the applicant.

23 MR. RATLIFF: Again, I'll defer to Mr.
24 Caswell on that.

25 HEARING OFFICER FAY: Okay.

1 MR. RATLIFF: Because he's had more time
2 to actually look at those comments.

3 MR. CASWELL: I'm Jack Caswell, Project
4 Manager for the Russell City Energy project. And,
5 no, staff has no comments on the applicant's.

6 HEARING OFFICER FAY: Very good. All
7 right, then we'll just turn to public comments.
8 And we have a request from Charlie Cameron to make
9 a comment. Mr. Cameron, would you come forward.

10 MR. CAMERON: Yes, Commissioner, Charlie
11 Cameron, a Hayward resident. I'm finally getting
12 around to constructively correcting the r,sum,s
13 and declarations issue, being that it wasn't
14 correctly corrected previously under typographical
15 errors.

16 I want to submit about four pages of
17 corrections. First of all, the first page,
18 r,sum,s and declarations. Is the word r,sum
19 looking for a job r,sum,, or the word r,sum,,
20 these are the things I did, these are my
21 qualifications?

22 Second thing. All of the other three
23 declaration-type people have grammatical mistakes
24 and inefficiencies. Anyone, professional people
25 looking at that, how could they overlook that?

1 The wrong place of signing for the sign and the
2 wrong place to sign your name is wrong. All of
3 the other declarations people did it correctly.

4 So that's my comment. And today, as we
5 speak, there is an Amtrak train wreck off of
6 Blomberg and Industrial Boulevard. Does the
7 applicant know that, as we speak?

8 The reason why I say that is because
9 that is the back southern entrance to the greater
10 Eden Landing Area. And they could possibly learn
11 if there's going to be a future derailment
12 impacting their project.

13 Thank you very much. Who can I give
14 these comments to?

15 HEARING OFFICER FAY: I'll take them.

16 PRESIDING MEMBER KEESE: Thank you.

17 HEARING OFFICER FAY: Thank you. These
18 comments will be docketed.

19 MR. CAMERON: Okay.

20 HEARING OFFICER FAY: Sheila Junge or
21 Junge.

22 MS. JUNGE: You got it right; most
23 people don't get it.

24 HEARING OFFICER FAY: Okay, which time
25 did I get it right? First time or second time?

1 MS. JUNGE: You're close, Junge.

2 HEARING OFFICER FAY: Junge, yes.

3 MS. JUNGE: I'm Sheila Junge; I'm a
4 Hayward resident. And I'm concerned about the
5 biological resources aspect of the decision.

6 I don't have any objections to express,
7 but I do have concerns. My concerns are about the
8 waste management property, which I understand the
9 applicant has an option on, but has not purchased.

10 And I'm also concerned about the
11 agreement with the City that the applicant is
12 supposed to facilitate for the property between
13 the waste management mitigation parcel, the City
14 property in between, and the East Bay Regional
15 Park District. I'm concerned that that agreement,
16 to my knowledge, has not been negotiated.

17 So I'm concerned as this process,
18 assuming, and I do assume, that you will approve
19 this project, my understanding is that the
20 approval is for a period of about five years. And
21 I would also guess that the applicant could
22 actually probably sell the approval -- sell the
23 project to someone else.

24 I'm concerned that these things have not
25 happened yet, and that in the future when they --

1 possibly the project does go forward either by the
2 applicant or by someone else, that it's not going
3 to be a process that is open to the public.

4 And my major concern is to say that I
5 hope that your language is strong enough to make
6 sure that things do happen the way that it appears
7 that they will in the language of the decision.

8 Thank you.

9 PRESIDING MEMBER KEESE: Thank you.

10 HEARING OFFICER FAY: Thank you. Since
11 I think we have plenty of time, I'll respond just
12 generally to your comments.

13 I want you to realize that if, for
14 instance, this project was sold, that is subject
15 to more than just mere notification to the
16 Commission. If there was any question about the
17 capability of the purchaser to perform all the
18 requirements in this decision, the Commission
19 could review that in a public hearing.

20 In addition, the agreements you
21 mentioned are a bit open, as you noticed, because
22 some of the beneficiaries were concerned about
23 being sure the applicant completed some mitigation
24 on the land rather than having those burdens fall
25 to East Bay Parks or other agencies.

1 So this is actually a benefit to the
2 public to have it work that way. And I assure you
3 that East Bay Parks and the Fish and Wildlife
4 Service and the Fish and Game are going to be
5 watching to be sure that those agreements are
6 fully carried out; as well as will the Energy
7 Commission Compliance Unit.

8 So there's going to be lots of oversight
9 over the steps yet to come.

10 MS. JUNGE: Great, I'm very glad to hear
11 that. So does that mean that if there were to be
12 a change in ownership of the project that there
13 would be a hearing, or that there might?

14 HEARING OFFICER FAY: There might be a
15 hearing. I think -- well, it would come up in a
16 business meeting, so there would certainly be a
17 chance to address it there.

18 There may also be separate hearings
19 depending on just --

20 PRESIDING MEMBER KEESE: It gets
21 approved by the Commission. So, it is in a
22 formal, open proceeding like this where testimony
23 can be taken.

24 MS. JUNGE: Okay. And you would notify
25 people who have expressed interest, such as

1 myself, that this was happening?

2 HEARING OFFICER FAY: Yes. You may want
3 to talk to the Public Adviser about how to be sure
4 you get that kind of notice.

5 MS. JUNGE: Okay, great, thank you very
6 much.

7 HEARING OFFICER FAY: All right, thanks.
8 The Chairman has reminded me to be sure we ask are
9 there any other parties here who wish to address
10 the proposed decision. Anybody from East Bay Park
11 who has a comment to add?

12 All right. I hear no indication from
13 other parties, so we'll go on with public comment.

14 Janice Delfino.

15 MS. DELFINO: Thank you. Yes, I'm
16 Janice Delfino and I have the same question as I
17 had I guess a month or two ago when I spoke before
18 you gentlemen.

19 Will this -- if the permit is given to
20 Calpine for the Russell City Power Plant, but
21 there is a delay in the building of the power
22 plant, will the restoration on the Hayward
23 shoreline and the wetland area go forth?

24 Because there is this, as I mentioned
25 last time, there should be the coordination with

1 the project that is ongoing right now by the
2 Hayward Area Recreation and Park District, HARP, D,
3 bringing in -- they will be bringing in Bay water.

4 Will the plans that Calpine has for the
5 restoration of the property they're purchasing,
6 will there still be a coordination, or will we
7 have to wait maybe five years, or a period of time
8 anyway, before that is done?

9 Or do you know?

10 HEARING OFFICER FAY: And I guess I'll
11 ask Mr. Wheatland if he can respond to that.

12 MR. WHEATLAND: By our agreement with
13 the East Bay Regional Park District, the
14 restoration would begin at the time of
15 construction of the project begins. So,
16 restoration would not begin before construction of
17 the project would begin.

18 MS. DELFINO: So there will not, then,
19 be coordination with the project that is ongoing
20 at this present time? I guess that's --

21 HEARING OFFICER FAY: Apparently not.

22 MS. DELFINO: Yes. Well, that is a
23 concern. But then what happens to the property
24 that the -- the waste management property that
25 Calpine has an option on? Does that just remain

1 as status quo?

2 MR. LEAHY: Calpine, as was observed
3 earlier, does have an option on the property; and
4 yes, until construction begins there wouldn't be
5 any remediation on that piece of property. That
6 all begins at about the same time that
7 construction does.

8 And it will be coordinated with HARPD at
9 that time. But we can't assure that it would
10 necessarily gear in this month, next month. But
11 when it begins we'll certainly be coordinating
12 with HARPD.

13 MS. DELFINO: All right, thank you.

14 HEARING OFFICER FAY: All right, thanks
15 for your comment.

16 That reflects all the blue cards I have
17 from members of the public. Is there any other
18 member of the public who'd like to address the
19 Committee?

20 Okay.

21 (Pause.)

22 HEARING OFFICER FAY: Mr. Wheatland,
23 you've heard Mr. Ratliff indicate staff is going
24 to be submitting a recommendation for language in
25 one of the conditions to reflect the sentiment of

1 the decision.

2 Do you have any comments there? Or can
3 we at least ask you to think about ways we could
4 smooth this along so that we don't have a lot of
5 last-minute conversation about this. But, in
6 fact, perhaps the parties have actually had a
7 meeting of the minds and come in with a joint
8 recommendation.

9 MR. WHEATLAND: Well, if I understand
10 Mr. Ratliff correctly, the staff would like to
11 propose some language that would address, in
12 essence, the procedural steps by which the
13 compliance unit would determine whether to seek
14 additional monitoring requirements. Something in
15 the order of the demonstration project would be
16 completed; certain parties would get together and
17 evaluate the results; and make a recommendation.

18 Those kinds of procedural mechanisms to
19 come forth with a recommendation on the need for
20 additional monitoring I think would be a useful
21 clarification of the decision. And we can agree
22 in concept to additional language that would
23 outline the mechanism to make that recommendation.

24 MR. LEAHY: Fair to say, we would view
25 that as being a fairly brief addition; you know, a

1 few sentences sort of thing.

2 HEARING OFFICER FAY: I take it staff
3 just feels it would be clearer to have the
4 Committee sentiment included in the conditions of
5 certification.

6 MR. RATLIFF: That's right.

7 HEARING OFFICER FAY: Okay.

8 MR. RATLIFF: We're thinking, talking
9 about a one- or two-sentence addition to the
10 conditions of certification that would, for
11 example, might -- the way we think it might look
12 would be that at the conclusion of the major
13 earth-moving activity that occurs at Los Esteros
14 there would be a meeting between the what we call
15 the CMM and the CPM. That's the compliance
16 project manager --

17 PRESIDING MEMBER KEESE: Do you want to
18 swing this up?

19 MR. RATLIFF: Sorry?

20 PRESIDING MEMBER KEESE: This is the
21 one, --

22 HEARING OFFICER FAY: The microphone in
23 front of you.

24 (Pause.)

25 MR. RATLIFF: If we had a meeting at the

1 conclusion of the major earth-moving activity at
2 Los Esteros of the compliance project manager, the
3 compliance mitigation manager from that project
4 with the compliance staff, and the applicant, we
5 could then, at that meeting, assess -- this
6 informal meeting -- assess whether or not there
7 are advantages to a similar kind of monitoring at
8 Russell City.

9 Then we could propose to the Committee
10 that that take place, or simply implement it if we
11 have complete agreement on it.

12 HEARING OFFICER FAY: Well, i think at
13 that point you'd be proposing it to the
14 Commission; the compliance would be coming to the
15 Commission because I assume this would happen some
16 months in the future.

17 MR. RATLIFF: Yeah; I'm not certain
18 whether or not this is the kind of thing that
19 would have to actually require some further
20 Commission approval or whether or not this is
21 something that can merely be implemented by the
22 Compliance Unit if there is agreement with the
23 applicant that as to the nature of what monitoring
24 would occur.

25 I'm not sure that there's -- if we had

1 that kind of agreement I'm not sure that it has to
2 go to the Commission to actually occur. But if
3 you wanted it to, of course, we could make that
4 happen.

5 HEARING OFFICER FAY: It seems
6 preferable to keep it at just a professional staff
7 level just because it would be more efficient,
8 that if it is agreed upon there'd be no reason to
9 go back to the Commission.

10 So if you could craft language that
11 would allow for that possibility. And then if it
12 becomes a matter of dispute, obviously you can
13 bring it to the Commission.

14 How soon do you think you could serve
15 something on the docket that would be your
16 recommended language?

17 MR. RATLIFF: Well, my hope would be no
18 later than Monday to provide language; maybe even
19 before the end of the week. This isn't a
20 difficult task.

21 HEARING OFFICER FAY: Okay, why don't we
22 say Monday, we'll look for it then.

23 MR. RATLIFF: Okay.

24 HEARING OFFICER FAY: And if you can fax
25 it to the applicant, or send it electronically,

1 then they'd have a chance to look at it and get
2 back to you.

3 MR. RATLIFF: Yes.

4 HEARING OFFICER FAY: I think it's
5 important to the Committee that by the 30th we
6 have some idea of whether we have a dispute or
7 not.

8 Okay, good. Thank you.

9 Okay, well, that concludes our business
10 very efficiently. And I want to thank you all for
11 coming.

12 And I want to echo Mr. Wheatland's
13 remarks; I think the parties need to be commended
14 for putting in a tremendous amount of work, as
15 well as East Bay Parks, for taking on some
16 difficult challenges within the process, rather
17 than bringing them all to litigation. And
18 resolving some problems.

19 To site a power plant in the Bay Area is
20 never an easy task. And this involved some
21 sensitive habitat. And yet I think the parties
22 have reached an agreement that makes it possible
23 to go forward building a power plant and
24 preserving some valuable wetlands.

25 So, I commend the parties for that

1 effort.

2 All right, thank you, all. We are
3 adjourned.

4 (Whereupon, the Committee Conference was
5 adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Committee Conference; that it
was thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
conference, nor in any way interested in outcome
of said conference.

IN WITNESS WHEREOF, I have hereunto set
my hand this 28th day of August, 2002.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345